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COMMISSION ON HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 60th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 23 April 1996, at 6 p.m.

Chairman: Mr. VERGNE SABOIA (Brazil)

CONTENTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (continued)

DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (continued)

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (continued)

ORGANIZATION OF THE WORK OF THE SESSION (continued)

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The meeting was called to order at 6 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 10) (continued) (E/CN.4/1996/L.30/Rev.1, 42, 52/Rev.1, 75, 78, 86, 87, 90-92, 93/Rev.1, 95, 96, 98 and 99)

Draft resolution on the situation of human rights in Iraq (E/CN.4/1996/L.92)

1. Mr. TORELLA di ROMAGNANO (Italy), introduced the draft resolution on behalf of the 28 sponsors, summarized its contents, and invited members of the Commission to vote in favour of it in view of the gravity of the human rights situation in Iraq.

2. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Australia, Canada and the United States and the observers for Argentina and Iceland had become sponsors of the draft resolution.

3. Mr. AL-DORY (Observer for Iraq) said certain States had yet again submitted a purely political document aimed at dismembering Iraq and shattering its national unity. It was a clear message aimed at all States of the third world seeking to maintain their sovereignty, identity and political independence.

4. The draft resolution reflected the allegations and claims of the Special Rapporteur who was known for his lack of objectivity or impartiality. Moreover, the enemies of Iraq had quoted false and misleading information, disregarding official information supplied by the competent authorities through the Centre for Human Rights.

5. The reference in paragraph 2 (c) to "cruel and unusual punishment" was incongruous, since it had been decided earlier to delete those words given the fact that such punishment was no longer imposed. Similarly, the claim that Iraq granted impunity to persons was false since the temporary measures, under which citizens had the power to defend themselves, had been rendered obsolete after the return to normal. All Iraqi citizens were subject to the rule of law and he invited the Special Rapporteur to cite the name of any individual who had benefited from impunity. The Iraqi Government would do its utmost to take appropriate measures in that connection, working through the Tripartite Commission comprised of the allies, Kuwait and Iraq under the auspices of the International Committee of the Red Cross. Moreover, the technical committee of that Commission had continued to carry out its work ever since its inception, contrary to what had been stated in the draft resolution. The Government of Iraq would continue its efforts to clarify the situation and was willing to cooperate with anyone demonstrating goodwill in that regard.

6. The reference to an internal embargo in paragraph 6 (e) was rather strange because such a measure would have dismembered Iraq and have had the same effect as the continued blockade against his country, which had amounted

to a form of genocide against the Iraqi people. The imposition of the blockade had promoted the sinister designs of certain States, in spite of the fact that humanitarian organizations had confirmed that Iraq was making extraordinary efforts to ensure that food and medical supplies reached its population.

7. Referring to the situation in the north of Iraq, he said the States which had created the situation bore full responsibility for it. The Iraqi Government was not shirking its responsibility for supplying the region with its needs, despite the scarcity of its resources.

8. The United States and the United Kingdom had set up obstacles whenever the United Nations seemed to be coming to terms with Iraq, and he noted that there had been every indication that, after two months of negotiations, an agreement between Iraq and the United Nations was about to be achieved. The premeditated move to impose new political, rather than technical, conditions indicated a lack of good faith on the part of those two States, despite their claims to the contrary. It was not only a matter of wasting time, but also of maintaining a blockade which had repercussions on food and medical supplies and an inevitable impact on the Iraqi population, especially on women and children.

9. Alluding to the more general points referred to in the draft resolution concerning multiparty democracy, freedom of the press and freedom of opinion, he said the long-standing crisis in his country was aggravated by the embargo and the enormous political pressure exerted on Iraq. That crisis would prevent the implementation of many of the programmes the Government had planned. Nevertheless, the Iraqi Government had adopted important measures and had imagined that some encouragement, on the part of the Commission would have been in order. But it appeared that the development of democracy was not desirable unless it conformed to the designs of certain States.

10. Reference had been made to condemnations, disappearances and cases of torture. Those accusations were unfounded and the sponsors of the draft resolution should have mentioned the amnesty measures taken and applied by the Iraqi Government. Instead they had focused only on crimes of a dangerous nature affecting the security of the State.

11. The Government of Iraq hoped other States would object to the draft resolution in the interest of truth and the noble aims for which the Commission had been established. Iraq found the sending of human rights monitoring observers unacceptable and an affront to its sovereignty which had implications for the countries of the third world.

12. Mr. RAZZOOQI (Observer for Kuwait) said that, in general, the draft resolution was balanced and realistic, in that it referred to the relevant Security Council resolutions and the report of the Special Rapporteur who had worked painstakingly. His recommendations and conclusions were in particular commendable.

13. Kuwait respected the sovereignty and territorial integrity of Iraq and lamented the suffering of its people, but took the view that, as Security Council resolutions were mandatory under Chapter 7 of the Charter

of the United Nations, Iraq was under an obligation to implement those concerning prisoners of war and missing persons. International law could not be implemented only when and where it suited States, but required full compliance. He called on all those who supported the cause of justice and peace to support the draft resolution and thus send a clear message to the Iraqi authorities to address their humanitarian issues.

14. Mr. BENITO (Financial Resources Management Service), explaining the financial implications of the draft resolution with reference to rule 28 of the Commission's rules of procedure, said that provision had been made under section 21 (human rights) of the programme budget for the biennium 1996/1997 for the activities of the Special Rapporteur in the amount of approximately US$ 32,000. Provision had also been made under the same section for field missions of staff and operational expenses, at the rate of four missions by two staff per year, in the amount of approximately US$ 123,000 for the biennium. It was therefore expected that if the draft resolution was adopted the costs incurred would be met out of available resources.

15. Mr. SUNG (Malaysia), speaking in explanation of vote before the voting, said his delegation valued his country's close bilateral relations and cooperation with Iraq. Malaysia shared Iraq's concern that the continuation of economic sanctions affected the right of its population to survival. His delegation welcomed and fully supported the initiative taken by the Government of Iraq in negotiating with the United Nations on economic cooperation, but shared the concern of the international community on the matter of missing foreign nationals and called for appropriate steps to be taken to achieve an early solution of the problem.

16. Malaysia would abstain on the vote of the draft resolution under consideration.

17. At the request of the representative of Algeria, the vote was taken by roll-call.

18. Bangladesh, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Australia, Austria, Belarus, Benin, Brazil, Bulgaria, Canada, Chile, Colombia, Denmark, Dominican Republic, Ecuador, El Salvador, France, Gabon, Germany, Hungary, Italy, Japan, Malawi, Mexico, Netherlands, Nicaragua, Peru, Republic of Korea, Russian Federation, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Abstaining: Algeria, Angola, Bangladesh, Bhutan, Cameroon, China, Côte d'Ivoire, Cuba, Egypt, Ethiopia, India, Indonesia, Malaysia, Mali, Mauritania, Nepal, Pakistan, Philippines, Sri Lanka, Uganda, Zimbabwe.

19. The draft resolution was adopted by 30 votes, with 21 abstentions.

Draft resolution on the situation of human rights in the Sudan (E/CN.4/1996/L.95)

20. Ms. FERRARO (United States of America), introducing the draft resolution on behalf of the sponsors, said her delegation welcomed the statement by the Sudanese Minister of Justice to the Commission on 17 April 1996 that his country was willing to cooperate with the Special Rapporteur and give the necessary assistance to fulfil his mandate. She also acknowledged the establishment of a government committee to investigate disappearances and slavery, as urged in General Assembly resolution 50/197, as well as the establishment of national committees for human rights education. She looked forward to a new era of relations with the Sudan and expressed the hope that the draft resolution would be adopted by consensus.

21. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Canada, France and Japan and the observers for Iceland, Liechtenstein and Portugal and South Africa had become sponsors of the draft resolution.

22. Mr. BENITO (Financial Resources Management Service), referring to rule 28 of the Commission's rules of procedure, said that the requirements connected with the extension of the mandate of the Special Rapporteur for one year were estimated in the programme budget at US$ 73,000 for the 1996-1997 biennium. They included travel for the Special Rapporteur and the staff of the Centre for Human Rights accompanying him. No provision had been made for sending human rights field officers, the cost of which was estimated at approximately US$ 200,000 for the biennium and on a full-cost basis. Those costs would be absorbed, to the extent possible, by the resources available to the Office of the High Commissioner and the Centre for Human Rights for the 1996-1997 biennium.

23. Mr. BEBARS (Egypt) confirmed his country's commitment to human rights and fundamental freedoms in all parts of the world but noted a tendency to use double criteria, which had not been agreed on in advance, within the framework of the activities of the Commission. Certain subjects which could not be considered to be covered by the mandate of the Commission had been raised. His delegation reiterated its position on the proposal to send field officers to monitor implementation of human rights in the Sudan and pointed out that the political and legal dimensions of paragraph 23 of the draft resolution were unclear. No action should be taken in that respect without prior consultation with, and the explicit approval of, the State concerned. Egypt refused to interfere in the internal affairs of States and confirmed its unswerving position of rejecting anything that would jeopardize the unity and sovereignty of the Sudan under international law.

24. The Sudan must maintain its relations with its neighbours, pledge its commitment to the respect for human rights and abstain from supporting terrorism and or any activity which aimed at undermining security in the region.

25. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution without a vote.

26. It was so decided.

Draft resolution on extrajudicial, summary or arbitrary executions (E/CN.4/1996/L.96)

27. Ms. PENNEGAARD (Observer for Sweden), introducing the draft resolution on behalf of the sponsors, said she was gratified by the atmosphere of cooperation and consensus-seeking that had prevailed during the consultations. It was hoped that the wording would be acceptable to all and she expressed the hope that the Commission would adopt the draft resolution by consensus, as in the past.

28. She drew attention to six proposed changes to the draft resolution. The end of paragraph 4 after the words "International Criminal Court" should be deleted. Paragraph 5 should be revised to read "Encourages the Governments of all States in which the death penalty has not been abolished to comply with their obligations under relevant provisions of international human rights instruments, taking into account the safeguards and guarantees referred to in Economic and Social Council resolutions 1984/50 and 1989/64;". The end of paragraph 7 (e) after the words "fundamental freedoms" should be deleted. In paragraph 12, the words ", where appropriate," should be inserted after the word "including". In paragraph 19, the words "a report" should be replaced by "an interim report". Lastly, the annex, which was already to be found, inter alia, in A Compilation of International Instruments, Volume I (First Part), should be deleted.

29. Mr. MÖLLER (Secretary of the Commission) said that the delegation of Canada and the observers for Argentina, Iceland, Liechtenstein, Luxembourg, New Zealand and Uruguay had joined the list of sponsors of the draft resolution.

30. Mr. BENITO (Financial Resources Management Services), explaining the budgetary implications of the draft resolution, as required under rule 28 of the Commission's rules of procedure, said that the sum of approximately US$ 176,000 had been earmarked in the programme budget for the 1996-1997 biennium to finance the activities of the Special Rapporteur. No additional appropriations would, therefore, be required for the implementation of the resolution, if adopted.

31. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as orally revised, without a vote.

32. It was so decided.

Draft resolution on the situation of human rights in Afghanistan (E/CN.4/1996/L.98)

33. The CHAIRMAN said that the draft resolution updated previous Commission resolutions on the subject and extended the Special Rapporteur's mandate.

34. The draft resolution was adopted without a vote.

Draft resolution on the situation of human rights in Rwanda (E/CN.4/1996/L.99)

35. Ms. BUCK (Canada) introduced the draft resolution on behalf of the sponsors. It condemned the genocide in Rwanda, urged the international community to bring the perpetrators to justice, renewed the Special Rapporteur's mandate, reiterated the need for international assistance to help Rwanda restore its infrastructure, and addressed the issue of the voluntary return of refugees.

36. She proposed two editorial changes to the text. The beginning of the eighth paragraph of the preamble should be revised to read: "Reaffirming the link between the voluntary return of refugees and the normalization of the situation in Rwanda, and concerned ...". The word "and" should be added at the end of paragraph 6, which would then be merged with the existing paragraph 7. She hoped that, as revised, the draft resolution would be adopted by consensus.

37. Mr. MÖLLER (Secretary of the Commission) said that the delegations of Bangladesh, Benin, Bulgaria, Chile, France, the Netherlands, Uganda and the United States of America and the observers for Liechtenstein, Portugal, Senegal, Spain and Tunisia had joined the list of sponsors of the draft resolution.

38. Mr. NTASHAMAJE (Observer for Rwanda) said that his delegation could accept the Canadian delegation's proposed revisions to the draft resolution, which reflected the Commission's concern at the situation of human rights in Rwanda. Concrete measures had been taken by the Government to remedy that situation. However, in the interests of transparency, his delegation would have liked the number of observers increased threefold to 300. He hoped that the draft resolution could be adopted by consensus.

39. Mr. BENITO (Financial Resources Management Services), explaining the budgetary implications of the draft resolution in accordance with rule 28 of the Commission's rules of procedure, said that the sum of approximately US$ 1.1 million had been provided in the programme budget for the 1996-1997 biennium to finance the activities envisaged in the mandate, including six field officers and two locally recruited General Services staff, travel by the Special Rapporteur to Rwanda and Geneva, and to Rwanda by staff accompanying him. The costs of the human rights field operation and the technical cooperation programme would be met from extrabudgetary resources. No additional appropriations under section 21 of the programme budget would, therefore, be required for the implementation of the resolution, if adopted.

40. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as orally revised, without a vote.

41. It was so decided.

Draft resolution on the situation of human rights in Zaire (E/CN.4/1996/L.93/Rev.1)

42. Mr. TORELLA di ROMAGNANO (Italy) introduced the draft resolution on behalf of the 25 sponsors, drawing attention to its salient points. He

proposed that the beginning of paragraph 12 should be revised to read: "Urges once again the Government of Zaire to follow up ... ". He hoped that the draft resolution, as orally revised, could be adopted without a vote.

43. Mr. MÖLLER (Secretary of the Commission) said that the delegation of Canada had joined the list of sponsors of the draft resolution.

44. Mr. SALOMON (Observer for Zaire) noted that the text of the draft resolution was almost identical to the resolution adopted at the previous session, thereby implying that no progress had been made in the promotion and protection of human rights. It was also based on the findings of the Special Rapporteur, whose report (E/CN.4/1996/66) was acknowledged to be biased, and also incomplete in its geographical coverage. In discussions with the sponsors, his delegation had provided proof that the information contained in that report was out of date.

45. Mr. BENITO (Financial Resources Management Services), explaining the budgetary implications of the draft resolution, said that the sum of approximately US$ 88,000 had been included in the programme budget for the 1996-1997 biennium to finance the Special Rapporteur's mandate. The cost of the establishment of an office of the High Commissioner for Human Rights in Zaire would be met from extrabudgetary resources. Accordingly, no additional appropriations under section 21 of the regular budget for the biennium would be required for the implementation of the resolution, if adopted.

46. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution, as orally revised, without a vote.

47. It was so decided.

Draft resolution on the situation of human rights in Nigeria (E/CN.4/1996/L.52/Rev.1)

48. Mr. TORELLA di ROMAGNANO (Italy) introduced the draft resolution on behalf of the sponsors, who had been joined by the delegation of Japan and the observers for Argentina, Slovakia and South Africa. The text called on the Government of Nigeria to accede to the request of the two thematic special rapporteurs to be allowed to visit Nigeria, so as to enable the Commission's fact-finding mechanisms to contribute to the parallel efforts of the Secretary-General's mission. The sponsors had followed closely the wording of General Assembly resolution 50/199, which had enjoyed very wide support, and had also been guided by the outcome of discussions held in the capitals of every member State of the Commission, and with members of all regional groups in the presence of the delegation of Nigeria. The resulting text also enjoyed wide support, and it should therefore be possible to adopt it by consensus.

49. Mr. HERVO-AKENDENGUE (Gabon), speaking on behalf of the African Group, thanked all those involved, and in particular the delegation of Nigeria and the European Union, for contributing to the spirit of cooperation that had characterized the consultations on the text of the draft resolution.

50. Mr. YADUDU (Observer for Nigeria) said his delegation had made it quite clear from the outset that the situation in Nigeria was grossly misunderstood and thus misrepresented. It had tried to correct those misrepresentations, and hoped that before long Nigeria's position would be fully appreciated.

51. What Nigeria needed was encouragement from the international community as it addressed the difficult task of restoring order to society, ensuring equality of opportunity and creating a vibrant economy. The draft resolution did not accurately depict the human rights situation in Nigeria, nor did it take account of the complexities of a country with a population of over 100 million and 250 ethnic groups, and of the Government's firm commitment to the transition to democratic governance. Furthermore, his delegation had expressed its dismay at the premature introduction of the draft resolution at a time when the report of the Secretary-General's high-level fact-finding mission was still awaited.

52. The Government's Transition Programme was being implemented with vigour and according to schedule. The human rights of each and every individual were respected, and allegations to the contrary were false. The major cause of Nigeria's current difficulties was not the human rights situation but the external debt burden. Nevertheless, some measure of agreement had emerged from the protracted negotiations on the draft resolution and, in a spirit of dialogue and cooperation, his delegation would acquiesce in its adoption by consensus.

53. Mr. BENITO (Financial Resources Management Service), referring to rule 28 of the Commission's rules of procedure, explained that as requirements for the rapporteurs' visits, estimated at US$ 50,000 for the 1996-1997 biennium, would be absorbed under section 21 of the programme budget, adoption of the draft resolution would not give rise to any additional requirements.

54. The draft resolution was adopted without a vote.

Draft resolution on the situation of human rights in Myanmar
(E/CN.4/1996/L.91)

55. Mr. TORELLA di ROMAGNANO (Italy), introducing the draft resolution on behalf of the 36 sponsors, said that while it recognized the positive steps taken by the Government of Myanmar, it urged the Government to take further action to improve the human rights situation in the country. He hoped that the draft would be adopted by consensus.

56. Mr. AYE (Observer for Myanmar) strongly refuted the impression created by the draft resolution that little progress had been made towards the improvement of human rights in Myanmar. He gave details of numerous favourable developments, including accession to the Geneva Conventions, the release from detention of those who no longer posed a threat to the peace and security of the State, and the convening of a National Convention to draft a Constitution. The Convention would be attended by a wide cross-section of the population. As both the civil and military courts were functioning normally, allegations of abuses could be brought before them and justice done. Lastly, he referred to the ongoing dialogue between the United Nations Secretary-General and representatives of his Government.

57. Mr. BENITO (Financial Resources Management Service), referring to rule 28 of the Commission's rules of procedure, explained that approximately US$ 82,000 had been included in the programme budget for the 1996-1997 biennium to finance the mandate of the Special Rapporteur. If the draft resolution was adopted, there would be no additional requirements or financial implications for the regular budget of the United Nations.

58. The draft resolution was adopted without a vote.

59. The CHAIRMAN said that, following consultations, he would like to make the following Statement which reflected what had been agreed by consensus on the situation of human rights in East Timor.

"The Commission on Human Rights discussed the human rights situation in East Timor.

"The Commission continues to follow with deep concern the reports on violations of human rights in East Timor.

"The Commission recalls the undertakings by the Government of Indonesia to promote human rights in East Timor and those contained in Chairman's Statements at previous sessions on the matter. The Commission stresses the need to take further steps towards their implementation, including the early release of the East Timorese detained or convicted and the further clarification of the circumstances surrounding the Dili incident of 1991.

"The Commission notes with satisfaction the greater access recently granted by the Indonesian authorities to international media and humanitarian organizations and trusts that it will be expanded further to human rights organizations.

"The Commission welcomes the visit to East Timor of the High Commissioner for Human Rights, Mr. José Ayala Lasso, on 6 December 1995, and stresses the importance of this visit in the context of last year's Chairman's Statement. The Commission notes with satisfaction the understanding reached between the Indonesian authorities and the High Commissioner concerning the upgrading of the current MOI on technical cooperation in the field of human rights, signed in Jakarta on 26 October 1994, into a MOU. In this context, it was also provisionally agreed to look into the possibility of the High Commissioner assigning a programme officer within the office of the United Nations Development Programme in Jakarta in order to follow up the implementation of the technical cooperation agreement. This officer would also have regular access to East Timor.

"The Commission welcomes the intention of the Government of Indonesia to continue to cooperate with the Commission on Human Rights and its mechanisms as well as its intention to invite a thematic rapporteur in 1997.

"The Commission welcomes the result of the seventh round of the tripartite dialogue between the Foreign Ministers of Indonesia and Portugal under the auspices of the United Nations Secretary-General on the question of East Timor, held in London on 16 January, and encourages the Secretary-General to continue his good offices in order to achieve a just, comprehensive and internationally acceptable solution to the question of East Timor.

"The Commission welcomes the informal bilateral meeting between President Suharto and Prime Minister Guterres during the ASEM in Bangkok on 19 February 1996, and expresses the hope that it will contribute positively to the ongoing tripartite dialogue. The Commission also welcomes the holding of the all-inclusive intra-East Timorese dialogue in Burg Schlaining, Austria, from 19 to 22 March 1996.

"The Commission requests the Secretary-General to keep it informed on the situation of human rights in East Timor and will consider it at its fifty-third session."

60. The CHAIRMAN said that the Bureau had agreed to recommend the following draft decision to the Commission.

Question of human rights in Cyprus

"At its 60th meeting, on 23 April 1996, the Commission decided, without a vote, to retain on its agenda item 10 (a), entitled 'Question of human rights in Cyprus', and to give it due priority at its fifty-third session, it being understood that action required by previous resolutions of the Commission on the subject would continue to remain operative, including the request to the Secretary-General to provide a report to the Commission regarding their implementation."

61. The draft decision was adopted.

DRAFTING OF A DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (agenda item 19) (E/CN.4/1996/L.88)

Draft resolution on the question of a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (E/CN.4/1996/L.88)

62. Mr. WILLE (Observer for Norway), introducing the draft resolution on behalf of the sponsors, reviewed its contents and expressed the hope that it would be adopted by consensus.

63. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Austria, Chile, Denmark, Ecuador, El Salvador, France, Madagascar, the United Kingdom and the United States and the observers for Liechtenstein, Portugal, Senegal, Spain, Switzerland and Syria had joined the list of sponsors.

64. Mr. BENITO (Financial Resources Management Service), referring to rule 28 of the Commission's rules of procedure, said that there would be no financial implications for the regular budget of the United Nations if the resolution was adopted. The substantive servicing of the Working Group would be provided by the Centre for Human Rights, and the cost of conference servicing would be met from existing resources under section 26 E of the programme budget for the 1996-1997 biennium.

65. The draft resolution was adopted without a vote.

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 21) (continued) (E/CN.4/1996/L.97 and Corr.1)

Draft resolution on comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (E/CN.4/1996/L.97 and Corr.1)

66. Mr. STROHAL (Austria) introduced the draft resolution. The sponsors believed that the 1998 five-year review of the World Conference on Human Rights would benefit from a discussion of the question of United Nations system-wide coordination of follow-up to the Vienna Declaration and Programme of Action, and that idea had accordingly been embodied in paragraph 11 of the draft resolution, which he hoped would again be adopted without a vote.

67. Mr. MÖLLER (Secretary of the Commission) said that the delegations of Benin, Chile, France and Venezuela and the observers for Finland, New Zealand, Poland, Portugal, Spain, Sweden, Thailand, Tunisia and Uruguay had joined the list of sponsors of the draft resolution.

68. The CHAIRMAN said he took it that the Commission wished to adopt the draft resolution without a vote.

69. It was so decided.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

70. The CHAIRMAN said that, following consultations with the interested parties, it had been decided that he should make the following statement on the situation of human rights in Colombia.

> "1. The Commission on Human Rights is deeply concerned that the situation of endemic violence affecting many parts of the country and the confrontation between Government and guerrilla groups have resulted in serious consequences for human rights in the country.
>
> "2. The Commission on Human Rights acknowledges the efforts carried out by the Government in the field of human rights, and its willingness to cooperate with the special rapporteurs and working groups; welcomes the collaboration provided by the Government of Colombia to the High Commissioner for Human Rights during the visit he paid to the country last year; notes the establishment of a

follow-up commission in charge of analysing and promoting the fulfilment of recommendations of the United Nations thematic rapporteurs and working groups, as well as of other international and regional organizations.

"3. The Commission on Human Rights is however deeply concerned about the violations of the right to life, as extensively evidenced in the report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. Thousands of lives are lost every year as the result of various acts of violence, especially in the context of the armed conflict between the Government and the guerrillas, as well as by the action of paramilitary groups. Such conflict entails serious and continuous abuses and violations of humanitarian law by both State agents and guerrilla groups, the latter of which persist in prohibited practices such as the taking of civilian hostages.

"The Commission on Human Rights acknowledges that the Government of Colombia has taken steps for the application of humanitarian standards in the conflict, inter alia, by the agreement with ICRC to facilitate its humanitarian activities in the country.

"4. The Commission on Human Rights remains deeply preoccupied about the large number of cases of disappearances, as shown in the report of the Working Group on Enforced or Involuntary Disappearances. The application at national level of the Declaration on the Protection of All Persons from Enforced Disappearances, faces several obstacles, generating impunity.

"The Commission on Human Rights, while taking note of the intentions manifested by the Colombian Government to undertake efforts in order to enhance the rule of law, calls for the urgent adoption of more effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearances in accordance with article 3 of the Declaration.

"5. The Commission on Human Rights remains concerned about the alarming level of impunity, in particular concerning abuses by State agents that presently fall under the jurisdiction of military courts; it encourages the Government of Colombia to continue and conclude the process of reform of the Military Penal Code according to the recommendations made by the thematic rapporteurs, in particular as far as the exclusion from the jurisdiction of military courts of crimes against humanity is concerned. It takes note of the establishment of a human rights unit in the Office of the National Prosecutor with the competence to investigate and indict State agents, guerrillas and members of paramilitary groups responsible for violations of human rights or humanitarian law.

"6. The Commission on Human Rights is deeply concerned also about the persistence of the practice of torture. The report of the Special Rapporteur on Torture shows that the steps taken by the Government of Colombia have not resulted in a tangible improvement

of the overall situation, and that the crime of torture is hardly punished. The information before the Committee against Torture indicates that the law in Colombia is not yet in accordance with several obligations under the Convention against Torture.

"7. The Commission on Human Rights urges the Government of Colombia to continue strengthening ordinary justice versus special systems of justice, the misuse of which can lead to serious violations of human rights. The competence of the courts of regional jurisdiction should be limited, and in no instance should be applied to acts of legitimate political dissent and social protest. In no instance should defendants before regional courts be denied a fair trial.

"8. The Commission on Human Rights - while encouraging the work of the Special Commission set up by the Colombian Government for the follow-up and implementation of the recommendations of the thematic rapporteurs - considers that the implementation of such recommendations and those of working groups is still not sufficient, nor has the human rights situation improved significantly, and recalls the resolution adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in August 1995.

"9. The Commission on Human Rights requests the High Commissioner on Human Rights to proceed, upon the initiative of the Colombian Government and the identification of adequate sources of financing, to establish at the earliest possible date a permanent office in Colombia with the mandate to assist the Colombian authorities in the development of policies and programmes for the promotion and protection of human rights and to observe violations of human rights in the country, making analytical reports to the High Commissioner; requests likewise the High Commissioner to report to the fifty-third session of the Commission on the setting-up of the Office and on the activities carried out by it in implementing the above-mentioned mandate."

71. The CHAIRMAN said that the Bureau had agreed to recommend the following draft decisions to the Commission.

"Draft decision: Organization of the work of the fifty-third session

"At its 60th meeting on 23 April 1996, the Commission decided, without a vote, in the light of the positive experience gained by rescheduling the dates of the fifty-second session on a one-year trial basis, to recommend to the Economic and Social Council, pursuant to the Council's decision 1994/297 of 29 July 1994, and bearing in mind Council decision 1995/296 of 25 July 1995, that the dates for the Commission's annual regular sessions be rescheduled to take place in March/April each year, instead of earlier in the year, and that, accordingly, the fifty-third session be scheduled to take place from 10 March to 18 April 1997."

"1996/... Organization of the work of the fifty-third session

"At its 60th meeting, on 23 April 1996, the Commission, taking into account its heavy schedule of work, as well as the need to give adequate consideration to all the items on the agenda, and recalling that in previous years the Economic and Social Council had approved the Commission's request for additional meetings for its thirty-seventh to fifty-second sessions, decided, without a vote:

"(a) To recommend to the Economic and Social Council that it authorize, if possible within existing financial resources, 40 fully serviced additional meetings, including summary records, in accordance with rules 29 and 31 of the rules of procedure of the functional commissions of the Economic and Social Council, for the Commission's fifty-third session;

"(b) To request the Chairman of the Commission at its fifty-third session to make every effort to organize the work of the session within the time normally allotted, the additional meetings that the Economic and Social Council might authorize to be utilized only if such meetings proved to be absolutely necessary."

72. The draft decisions were adopted.

The meeting rose at 8.15 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 61st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 24 April 1996, at 10 a.m.

Chairman: Mr. VERGNE SABOIA (Brazil)

CONTENTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (continued)

ORGANIZATION OF THE WORK OF THE SESSION (continued)

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CONTENTS (continued)

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS (continued)

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (continued)

The meeting was called to order at 10.45 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(agenda item 10) (continued)

1. The CHAIRMAN said that, after intensive consultations, the following consensus statement by the Commission had been agreed with respect to the situation in Chechnya:

"1. The Commission on Human Rights, having examined the report of the Secretary-General E/CN.4/1996/13 of 26 March 1996, and Add.1 of 22 April 1996, recalls its presidential statement of 1995 in connection with the grave situation of human rights in the Republic of Chechnya of the Russian Federation. The Commission is deeply concerned that, in spite of its urgent call, the disproportionate use of force by the Russian Federation armed forces, resulting in high number of civilian casualties, continues leading to the grave violations of human rights as well as of international humanitarian law.

2. The Commission remains deeply preoccupied with the continued fighting and, despite the latest peace initiative by President Yeltsin, notes that a lasting cease-fire has not been carried out on the ground. Accordingly, the Commission strongly deplores the high number of victims and the suffering inflicted on the civilian population and on displaced persons who are subjected to the effects of the armed confrontation. Severe destruction of Chechen towns and villages with consequent displacement of a large proportion of the civilian population is a conspicuous feature of military actions in the Republic this year as in 1995. In this context, the Commission calls for an immediate and permanent cessation of bombardment of civilian towns and villages that is still continuing. The Commission strongly deplores this and the serious destruction of installations and infrastructure used by civilians. It condemns all violations or abuses of human rights and international humanitarian law and calls for all those who have committed violations of human rights and other crimes to be brought to justice.

3. The Commission on Human Rights urges the parties concerned to respect fully the principles of international law and calls urgently for an immediate and lasting cessation of hostilities, violations of human rights and other acts of violence, convinced that political dialogue and effective negotiations are the only means to achieve a genuine and lasting settlement. The Commission calls for immediate contacts between representatives of the parties with the aim of finding a peaceful solution to the conflict, consistent with respect for the territorial integrity and the Constitution of the Russian Federation. It further reiterates that the fundamental human rights of the people of the Republic of Chechnya should be upheld, and calls for the holding of free and democratic elections in due time.

4. The Commission on Human Rights stresses the important role of the Organization for Security and Cooperation in Europe (OSCE) and its assistance group in accordance with its mandate in the peaceful settlement of the conflict and the implementation of a peace plan.

5. The Commission on Human Rights further calls for unhindered delivery of humanitarian aid to all groups of civilian population in need of such assistance and free access to all areas of the region by international humanitarian organizations contributing to international humanitarian efforts in the Republic of Chechnya.

6. The Commission on Human Rights calls for the immediate release of all those who have been detained in connection with the conflict and urges that in the interim they receive treatment in conformity with international humanitarian law. The Commission further calls for the ICRC to be permitted to have regular access to all detainees, in conformity with its standard criteria, in order to verify the conditions of their detention and treatment. To help provide aid to the victims, the Commission asks the Russian Federation authorities to facilitate the activities of humanitarian and human rights organizations.

7. The Commission on Human Rights acknowledges the cooperation of the Russian Federation with the High Commissioner for Human Rights and the special mechanisms of the Commission and encourages the Government of the Russian Federation to continue its cooperation with them. The Commission on Human Rights requests the High Commissioner for Human Rights to continue on the basis of his assessment of the situation in the Republic of Chechnya his consultations with the Russian Federation Government in order to secure the implementation of the objectives of the international community as reflected in the present consensus statement and to foster confidence-building measures based on respect for human rights.

8. The Commission on Human Rights requests the Secretary-General to report on the situation of human rights in the Republic of Chechnya of the Russian Federation during its fifty-third session under the appropriate agenda item."

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

2. The CHAIRMAN proposed the following draft decision:

"At its 61st meeting on 24 April 1996, the Commission decided that, unless otherwise indicated in the resolutions adopted by the fifty-second session, all continuing thematic or country-oriented mandates established by the Commission and entrusted to special rapporteurs, special representatives, independent experts and working groups are expected to report to the fifty-third session, irrespective of whether the relevant resolutions make explicit reference to that reporting obligation, or not."

3. If he heard no objection, he would take it that the Commission wished to adopt the draft decision.

4. It was so decided.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(agenda item 9) (continued) (E/CN.4/1996/L.62, L.65 and L.79)

Draft resolution on strengthening of the Office of the United Nations High Commissioner for Human Rights/Centre for Human Rights (E/CN.4/1996/L.65)

5. Mr. TORELLA di ROMAGNANO (Italy), introducing the draft resolution on behalf of its sponsors, said that it was based on the idea that the High Commissioner for Human Rights and the Centre constituted a unity in the United Nations human rights system. It fully supported the High Commissioner's efforts to rationalize, strengthen, adapt and streamline the United Nations machinery in the field of human rights, with particular reference to the restructuring of the Centre. To that end, it was essential that more human, financial, material and personnel resources be provided from the regular budget to the human rights programme.

6. The High Commissioner should also be able to react rapidly to emergency situations in order to prevent human rights violations, as envisaged in his mandate. The draft resolution encouraged the High Commissioner to continue to seek effective means to that end. System-wide cooperation in human rights matters was also crucial and cooperation on human rights issues between the High Commissioner and other departments and offices of the Secretariat should thus be pursued.

7. The sponsors hoped that, in view of the balanced nature of its text, the draft resolution would be adopted without a vote.

8. Mr. MÖLLER (Secretary of the Commission) announced that the delegations of Australia, Canada, Peru and the United States of America and the observers for Argentina, Iceland, Lithuania, Uruguay and Venezuela had become sponsors of the draft resolution.

9. Mr. H.K. SINGH (India) said that his delegation had full confidence in the High Commissioner. However, it was aware that, while some delegations were fully informed of the most intricate details of the restructuring process that was under way, those of the developing countries were not. While in no way desirous of micro-managing the process, it felt that the delegations of developing countries, like their Western colleagues, should not only be

briefed about changes affecting priorities and mandates but also have their views taken into account, since they too were concerned to strengthen the hands of the High Commissioner in his efforts to streamline the Centre's work.

10. Mr. IRUMBA (Uganda), having endorsed the remarks of the representative of India, said that, while his delegation supported the call for increased resources for the Centre, such resources should not be taken from those earmarked for development activities.

11. Mr. LIU Xinsheng (China), having endorsed the statements by the representatives of India and Uganda, said that, while his delegation would join the consensus, it hoped that the High Commissioner would pay attention to the implementation of the right to development and support that right in every possible way.

12. The draft resolution was adopted without a vote.

Statements in explanation of position

13. Mr. LILLO BENAVIDES (Chile) said that, although his delegation had joined the consensus on the draft resolution on human rights and terrorism (E/CN.4/1996/L.79), it had done so without prejudice to his Government's firm view that the concept of human rights violations was such that they were imputable only to States and their agents. The actions of terrorist groups were criminal acts that must be punished under the domestic criminal law of the State concerned. The assertion that such actions constituted in themselves violations of human rights thus distorted that age-old concept and could have serious consequences in that such an equivalence diluted State responsibility in the matter.

14. Mr. QAZI (Pakistan) said that, while his Government strongly opposed and condemned terrorism in all its forms and manifestations, it endorsed the statement, made by the representative of Turkey when introducing the draft resolution, that a clear differentiation must be made between terrorism and the legitimate struggle of peoples for self-determination. Terrorism promoted by States against innocent people in order to perpetrate foreign occupation was the most abhorrent form of terrorism.

15. Mr. TORELLA di ROMAGNANO (Italy), speaking on behalf of the European Union and also of Norway, said that the Governments in question continued to have reservations concerning parts of the draft resolution on human rights and terrorism (E/CN.4/1996/L.79). Noting that the Union had reaffirmed its support for the declaration annexed to General Assembly resolution 49/60, he said that terrorism was a threat to democracy and to the free exercise of human rights but that the existence of terrorism and the activities of terrorist groups could not be invoked to justify human rights violations by any State. The fight against terrorism should be carried out with full respect for human rights and fundamental freedoms. He thus welcomed the fifteenth preambular paragraph and paragraphs 4 and 5 of the draft resolution.

16. As for the twelfth preambular paragraph, the assertion that terrorist acts as such constituted human rights violations could not be supported by the

European Union or Norway which took the view that the distinction between acts attributable to States and criminal acts which were not, was an important one. That paragraph did not confer on terrorists any status under international law.

17. The Union, whose territory and citizens had often suffered the unjustifiable criminal acts of terrorist groups, had the greatest sympathy and consideration for the victims of terrorism in any part of the world. However, it still considered that, of the Main Committees of the General Assembly, the Sixth was the best suited for a thorough examination of the question of terrorism. Despite their reservations, however, the European Union and Norway had joined the consensus on the draft resolution.

18. Mrs. FERRARO (United States of America) said that, while her delegation had joined the consensus on the draft resolution on human rights and terrorism (E/CN.4/1996/L.79), its fundamental view was that terrorism could be more appropriately dealt with in other United Nations bodies, particularly the Sixth Committee of the General Assembly. Indeed, because of the Sixth Committee's extensive work on terrorism, her delegation would have preferred to see a reference to General Assembly resolution 50/53 adopted in that Committee.

19. The consideration of that item by the Commission did not advance the important work being done in those bodies to promote international cooperation against terrorism. On the contrary, it ran the risk of complicating it.

20. By asserting that terrorists violated human rights, the resolution granted them a measure of the legitimacy that they sought. With good reason, the relevant international human rights instruments clearly distinguished between State and non-State actors when discussing human rights. The members of the Commission must be careful, in their zeal to condemn and denounce terrorism, not to confuse the work of the Commission, send misleading messages as to its mandate or hamper its ability to do its work.

21. Mr. KONISHI (Japan), said, with reference to the draft resolution on national institutions for the promotion and protection of human rights (E/CN.4/1996/L.62), that financial assistance for the establishment and strengthening of national institutions should be provided through the regular budget of the United Nations for advisory services and technical cooperation, rather than through the Voluntary Fund for Technical Cooperation in the Field of Human Rights.

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 21) (continued) (E/CN.4/1996/L.94)

Draft resolution on the evaluation of the human rights programme of the United Nations system, in accordance with the Vienna Declaration and Programme of Action (E/CN.4/1996/L.94)

22. Miss HERNANDEZ QUESADA (Cuba), introducing the draft resolution, said that, in keeping with the spirit of the Vienna Declaration and Programme of Action, it stressed the necessity for the continuing adaptation, strengthening, rationalization and streamlining of the United Nations human

rights machinery to meet current and future needs for the promotion and protection of all human rights in a transparent manner through consultations with Member States and the competent intergovernmental bodies. In that connection, it emphasized the importance of maintaining a continuing dialogue between the High Commissioner for Human Rights and the Member States, especially with regard to the restructuring of the Centre for Human Rights and the need to ensure full implementation of the Vienna Declaration and Programme of Action and of all the mandates established by decisions of the competent bodies in the field of human rights.

23. The fourth preambular paragraph should be replaced by the following text:

"Recognizing the necessity for the continuing adaptation of the United Nations human rights machinery to current and future needs in the promotion and protection of human rights to be conducted in a transparent manner through consultations with Member States and competent intergovernmental organizations,".

24. The eighth preambular paragraph should be replaced by the following text:

"Recalling that, in the ongoing examination of the structures of the Secretariat of the United Nations dealing with human rights, particularly the Centre for Human Rights, full implementation of the Vienna Declaration and Programme of Action and all mandates established by decisions of competent bodies in the field of human rights, have to be ensured,".

25. In the ninth preambular paragraph, the word "permanent" should be replaced by "continuing". The following new preambular paragraph should be inserted after that preambular paragraph:

"Welcoming the consultations carried out by the High Commissioner for Human Rights in this regard,".

26. In paragraph 4, the word "again" should be deleted and the word "convene" should be replaced by "continue meeting,", the word "meetings" after the word "Geneva" being deleted.

27. The draft resolution, as orally revised, was adopted without a vote.

The meeting rose at 11.35 a.m.